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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,443	04/15/2004	David A. Doerflinger	459090	8341

7590

11/17/2005

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EXAMINER

KING, BRADLEY T

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/825,443	Applicant(s) DOERFLINGER ET AL.	
	Examiner Bradley T. King	Art Unit 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 17-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I in the reply filed on 8/18/2005 is acknowledged.

Claims 17-41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/18/2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 5-7 and 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites "those positions". It is not clear which positions correspond to "those" positions.

Claims 5-6 recite "the wheel". It is not clear which of the previously recited "wheels" corresponds to the "the wheel".

Claim 5 recites "a brake rotor coupled to the wheel and sandwichingly disposed between inner and outer brake pads respectively having inner and outer surfaces". It is not clear if the surfaces are on the rotor or the pads.

Claim 13 recites "ring-type". It is not clear what the addition of "type" is intended to convey, nor is it clear from the disclosure what constitutes a "ring-type" connector.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Barth (US# 5885048).

Barth discloses all the limitations of the instant claims including; a mechanically actuated braking assembly (see column 3, second paragraph) operably coupled with at least one of the wheels and being operable between braking and non-braking conditions; a handle 24 operably coupled to the braking assembly and being mounted to the frame for pivotal movement about a substantially horizontal axis between first **A** and second **B** positions in each of which the braking assembly is actuated to the braking condition; and an actuating mechanism responsive to movement of the handle from either of the first and second positions for actuating the braking assembly into the non-braking condition. See figure 3 and the corresponding disclosure.

Regarding claim 2, note the brake is released in the range **C**.

Regarding claim 3, the first position includes a location **A** where the handle is substantially vertical relative to the frame.

Regarding claim 4, the second position includes a location **B** where the handle is substantially horizontal relative to the frame.

Regarding claims 8 and 16, the disclosed actuation of a brake necessarily requires a biasing of a braking system into a braking condition as broadly recited.

Claims 1-5, 8 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Elliott (US# 2651379).

Elliott et al discloses all the limitations of the instant claims including; a mechanically actuated braking assembly (figure 3) operably coupled with at least one of the wheels 11 (via the driving mechanism) and being operable between braking and non-braking conditions; a handle 100 operably coupled to the braking assembly and being mounted to the frame for pivotal movement about a substantially horizontal axis between first and second positions (horizontal and vertical, see column 1, lines 26-35) in each of which the braking assembly is actuated to the braking condition; and an actuating mechanism responsive to movement of the handle from either of the first and second positions for actuating the braking assembly into the non-braking condition.

Regarding claim 5, see figure 3 which shows a rotor 68 and pads 73.

Regarding claims 8 and 16, see biasing mechanism 101.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barth (US# 5885048) in view of Kimble (US# 6286631).

Barth discloses all the limitations of the instant claims with exception to the disclosure of the details of the brake assembly. Barth instead disclose a "conventional" brake system. Kimble discloses a similar work vehicle and further teach a disc brake assembly including the recited lever and cable structure. See figures 5-6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize a disc brake assembly such as taught by Kimble in the device of Barth as an obvious brake actuation means, thereby providing efficient and appropriate braking to the device of Barth. Also note *Ryco, Inc. v. Ag-Bag Corp.*, 857 F.2d 1418, 8 USPQ2d 1323 (Fed. Cir. 1988) regarding the obviousness of art recognized suitable structures.

Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barth (US# 5885048) and Kimble (US# 6286631) as applied to claim 9 above, and further in view of Coultas (US# 1632175).

Barth and Kimble disclose all the limitations of the instant claims with exception to the details of the biasing structure. Note Kimble utilizes a tension spring for biasing. Compression spring biasing structures as well as clevis (yoke) connections are well

known in the art and further demonstrated by Coultas. See figure 3. It would have been obvious to one of ordinary skill in the art at the time the invention was made to the biasing structure taught by Coultas in place of the tension spring of Barth and Kimble as an obvious alternative construction which provides a confined and adjustable assembly, thereby allowing the adjustment of braking force and confining the spring in case of failure. Note figure 2 of Coultas has two arms 15 and the portion connecting the arms forms the shared leg.

Regarding claim 11, Coultas shows an elongated rod 13 and bracket 5.

Regarding claim 13, see the 112 2nd rejection above.

Regarding claim 14, note that Kimble utilizes a common point for the connection of both the biasing mechanism and the control cable. In modifying Barth and Kimble as taught by Coultas, one would naturally retain the common point for connection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weber, Thomas, Wolf, Wyse, Holanbek and Buckwalter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley T. King whose telephone number is (571) 272-7117. The examiner can normally be reached on 11:00-7:30 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James McClellan can be reached on (571) 272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BTK

Bradley King 11/14/05

**BRADLEY KING
PATENT EXAMINER**